

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Mike Knell, dba JTR Publishing,

Complainant,

vs.

Pacific Bell Telephone Company and AT&T
Communications of California, Inc.,

Defendants.

Case 01-07-034
(Filed July 25, 2001)

ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO

Summary

Pursuant to Rules 6(b)(3) and 6.3 of the Commission's Rules of Practice and Procedure (Rules), this ruling sets forth the procedural schedule, assigns a presiding hearing officer, and addresses the scope of the proceeding following a prehearing conference (PHC) held on November 5, 2001.

Background

Complainant alleges that he has service quality problems with his home office business lines that are worse when it rains. He also alleges that his phone listings keep changing and that his home address is included in his listing, despite directions not to include that information. Pacific Bell Telephone Company (Pacific) answers that the underground facilities providing service in the area of Complainant's residence are not worn out and do not need

replacement. Pacific notes that it does not provide retail service for the two phone numbers that are the subject of this complaint and states that it has not received a trouble report for Complainant's phone line since January 30, 2001. AT&T Communications of California, Inc. (AT&T) answers that it has no record of any service problem since January 30, 2001. AT&T further answers that it has corrected Complainant's business phone listing problems found in the Directory Assistance Data Base and has no record of a current complaint.

Pacific filed a motion to dismiss on October 18, 2001. Pacific asserts that it provides only resale service for the numbers at issue in the complaint and that the complaint is vague. Complainant's response to the motion states that his complaint is not vague and that he has recurring problems with the number used for his business fax and credit card machine.

The Commission held a PHC on November 5, 2001. At the PHC, the parties agreed to attempt to informally resolve the complaint over a period of two months.

Scope of the Proceeding

Based upon the pleadings filed to date and the representations of the parties at the PHC, it appears the dispute between the parties centers on four issues:

1. Whether Pacific should be dismissed as a defendant because it no longer is Complainant's retail service provider for the business lines that are the subject of this Complaint.
2. Whether AT&T and Pacific have adequately addressed Complainant's service quality problems.
3. Whether Complainant's phone listings fail to conform to his terms of service with AT&T.

4. Whether Complainant states a currently valid claim against AT&T and Pacific.

Schedule

The schedule for this proceeding is as follows:

January 16, 2002	Second PHC and end of attempt at informal dispute resolution
As necessary but within 45 days from 1/16/02	Complainant and Defendants serve testimony
As necessary but within 75 days from 1/16/02	Evidentiary hearing
....	Concurrent briefs filed, per schedule to be set by later ruling
....	Presiding officer's decision filed within 60 days of submission
....	Presiding officer's decision becomes effective (unless appeal filed within 30 days per Pub. Util. Code § 1701.2(a) and Rule 8.2)

Category of Proceeding and Need for Hearing

This ruling confirms this case as an adjudication scheduled for hearing, as preliminarily determined in the Instructions to Answer.

Assignment of Principal Hearing Officer

Administrative Law Judge Janice Grau will be the presiding officer.

Ex Parte Rules

Ex parte communications are prohibited in adjudicatory proceedings under Pub. Util. Code § 1701.2(b) and Rule 7 of the Rules.

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.
2. The schedule for this proceeding is as set forth herein.
3. The presiding officer will be Administrative Law Judge Grau.

4. This ruling confirms that this proceeding is an adjudication scheduled for hearing.

5. Ex parte communications are prohibited under Pub. Util. Code § 1701.2(b) and Rule 7 of the Commission's Rules of Practice and Procedure.

Dated December 14, 2001, at San Francisco, California.

/s/GEOFFREY F/BROWN

Geoffrey F. Brown
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's Ruling and Scoping Memo on all parties of record in this proceeding or their attorneys of record.

Dated December 14, 2001, at San Francisco, California.

/s/ JACQUELINE GORZOCH

Jacqueline Gorzoch

N O T I C E

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